**CRIMINAL POSSESSION OF A WEAPON**

**IN THE FOURTH DEGREE**

**(Unfinished frame or receiver)**

**Penal Law 265.01(10)**

**(Committed on or after** **April 26, 2022)[[1]](#footnote-1)**

The (*specify*) count is Criminal Possession of a Weapon in the Fourth Degree.

A person is guilty of Criminal Possession of a Weapon in the Fourth Degree when such person is not required to be a gunsmith licensed pursuant to law[[2]](#footnote-2) and, knowing it is an unfinished frame or receiver, such person possesses an unfinished frame or receiver.

The following terms used in that definition have a special meaning:

UNFINISHED FRAME OR RECEIVER means any material that does not constitute the frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means. [The term shall not include material that has had its size or external shape altered to facilitate transportation or storage or has had its

chemical composition altered.[[3]](#footnote-3)]

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.[[4]](#footnote-4)

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (*date*), in the County of (County), the defendant, *defendant's name*[[5]](#footnote-5) possessed an unfinished frame or receiver; and

2. That the defendant did so knowing it was an unfinished frame or receiver; and

3. That the defendant was not required to be a gunsmith licensed pursuant to law.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.

1. While the effective date of this statute is the 180th day after it became law on October 28, 2021 [L. 2021, c. 520], the statute contains the following proviso:

   “provided that for a period of six months after the effective date of this section, a person shall not be guilty of criminal sale of an unfinished frame or receiver in the second degree if such person: (a) voluntarily surrenders such unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) sells, exchanges, gives, or disposes of such unfinished frame or receiver to a gunsmith licensed pursuant to section 400.00 of this chapter.” [↑](#footnote-ref-1)
2. The word “law” is substituted for “section 400.00 of this chapter.” [↑](#footnote-ref-2)
3. Penal Law § 265.00(32). The definition of “unfinished frame or deceiver” in this section and Penal Law § 265.07 were identical in the L. 2021, c. 520. By a chapter amendment L. 2022, 149, the definition in Penal Law § 265.07 was amended to delete the last sentence and to insert in the opening sentence the word “unserialized” in the phrase: “ ‘unfinished frame or receiver’ means any unserialized material.” [↑](#footnote-ref-3)
4. Penal Law § 10.00(8). When constructive possession is in issue, insert the instruction in the section: General Applicability, Possession, Physical and Constructive. [↑](#footnote-ref-4)
5. When the defendant is charged in whole or in part as an accomplice, Court will add: personally, or by acting in concert with another person. *See* Accomplice charge. [↑](#footnote-ref-5)